

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

RODNEY O. SCOTT,

Plaintiff,

v.

Action No. 2:17cv176

VIRGINIA PORT AUTHORITY, *et al.*,

Defendants.

**UNITED STATES MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

By order of reference entered on July 18, 2017 (ECF No. 29), this case was referred to the undersigned United States Magistrate Judge for a report of proposed findings and a recommendation for the disposition by the United States District Judge of defendants Hampton Roads Shipping Association's ("HRSA"), Virginia International Terminals, Inc.'s ("VIT"), Virginia Port Authority's ("VPA"), and Michael L. Brewer's ("Brewer") respective motions to dismiss. ECF Nos. 7, 12, 14. Plaintiff Rodney O. Scott ("Scott") filed memoranda in opposition to each of the defendants' motions. ECF Nos. 20–22.

In his opposition memoranda, Scott asked this Court for leave to file an amended complaint. ECF No. 20 at 15; ECF No. 21 at 9–10; ECF No. 22 at 7. Simultaneously with this report and recommendation, the undersigned has issued an order granting Scott's request to amend his complaint, and giving him until September 15, 2017, to do so. Accordingly, the Court **RECOMMENDS** that the defendants' motions to dismiss be **DENIED** as **MOOT**.

REVIEW PROCEDURE

By copy of this report and recommendation, the parties are notified that pursuant to 28 U.S.C. § 636(b)(1)(C):

1. Any party may serve upon the other party and file with the Clerk written objections to the foregoing findings and recommendations within fourteen (14) days from the date of mailing of this report to the objecting party, *see* 28 U.S.C. § 636(b)(1), computed pursuant to Rule 6(a) of the Federal Rules of Civil Procedure. Rule 6(d) of the Federal Rules of Civil Procedure permits an extra three (3) days, if service occurs by mail. A party may respond to any other party's objections within fourteen (14) days after being served with a copy thereof. *See* Fed. R. Civ. P. 72(b)(2) (also computed pursuant to Rule 6(a) and (d) of the Federal Rules of Civil Procedure).

2. A district judge shall make a *de novo* determination of those portions of this report or specified findings or recommendations to which objection is made.

The parties are further notified that failure to file timely objections to the findings and recommendations set forth above will result in a waiver of appeal from a judgment of this Court based on such findings and recommendations. *Thomas v. Arn*, 474 U.S. 140 (1985); *Carr v. Hutto*, 737 F.2d 433 (4th Cir. 1984); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

/s/
Robert J. Krask
United States Magistrate Judge

Norfolk, Virginia
September 8, 2017